

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

MAYNE PHARMA LLC,

Plaintiff,

v.

PADAGIS ISRAEL PHARMACEUTICALS
LTD and PADAGIS US LLC,

Defendants.

Civil Action No. 1:21-cv-612-CFC

CONSENT JUDGMENT AND DISMISSAL

Plaintiff Mayne Pharma LLC (“Mayne”) and Defendants Padagis Israel Pharmaceuticals Ltd and Padagis US LLC (collectively, “Padagis”), the parties in the above-captioned action, have agreed to terms and conditions representing a negotiated settlement agreement of this action and have set forth those terms in a Settlement Agreement (the “Settlement Agreement”). Now the parties, by their respective undersigned attorneys, hereby stipulate and consent to entry of judgment and an injunction in this action as follows:

IT IS, this _____ day of _____, 2021

HEREBY ORDERED, ADJUDGED AND DECREED that:

1. For purposes of this action only, this Court has jurisdiction over the subject matter of the above action and has personal jurisdiction over Mayne and Padagis.
2. As used in this Consent Judgment, (i) the term “the Asserted Patent” means U.S. Patent No. 10,857,159, which Padagis agrees for purpose of this action is valid and enforceable, (ii) the term “Padagis’s ANDA Product” shall mean the product described in

Abbreviated New Drug Application No. 215266, including 0.05% halobetasol propionate topical foam as a generic version of Lexette®, as existing on the Effective Date, and as amended or supplemented from time to time in the ordinary course of business, and (iii) the term “Affiliate” shall mean any entity controlling, controlled by, or under common control with a party, but only as long as such control continues, where “control” means: (1) the ownership of at least fifty percent (50%) of the equity or beneficial interest of such entity, or the right to vote for or appoint a majority of the board of directors or other governing body of such entity; or (2) the power to directly, or indirectly direct or cause the direction of the management and policies of such entity by any means whatsoever.

3. Except as specifically authorized by the Settlement Agreement, Padagis, including any of its successors and assigns, is enjoined from making, having made, using, selling, offering to sell, importing or distributing Padagis’s ANDA Product, on its own part or through any Affiliate, officer, agent, servant, employee or attorney, or through any person in concert or coordination with Padagis or its Affiliates, through and until the expiration of the Asserted Patent, including any patent term extension and/or patent term adjustment, and the period of any pediatric exclusivity associated with the Asserted Patents. If Mayne becomes entitled to any other regulatory exclusivities that are not referenced herein, Mayne may apply to the Court for modification of the injunction to incorporate such specified exclusivity.

4. Compliance with this Consent Judgment may be enforced by Mayne and its successors in interest or assigns, as permitted by the terms of the Settlement Agreement, and the parties hereby waive any and all defenses based on personal jurisdiction and venue.

5. This Court retains jurisdiction to enforce or supervise performance under this Consent Judgment and the Settlement Agreement.

6. The Complaint and all remaining claims in Civil Action No. 21-612-CFC are dismissed without prejudice and without costs, disbursements, or attorneys' fees to any party.

7. As a result of the dismissal of this suit, the 30-month stay under 21 U.S.C. § 355(j)(5) (as amended or replaced) is terminated and no longer in effect.

IT IS SO STIPULATED:

K&L GATES LLP

/s/ Steven L. Caponi

Steven L. Caponi (No. 3484)
Matthew B. Goeller (No. 6283)
600 N. King Street, Suite 901
Wilmington, DE 19801
Phone: (302) 416-7080
steven.caponi@klgates.com
matthew.goeller@klgates.com

*Attorneys for Plaintiff
Mayne Pharma LLC*

HEYMAN ENERIO
GATTUSO & HIRZEL LLP

/s/ Dominick T. Gattuso

Dominick T. Gattuso (No. 3630)
300 Delaware Ave., Suite 200
Wilmington, De 19801
Telephone: (308) 472-7300
dgattuso@hegh.law

*Attorneys for Defendants Padagis Israel
Pharmaceuticals Ltd and Padagis US LLC*

SO ORDERED:

This _____ day of _____, 2021

UNITED STATES DISTRICT JUDGE